

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)

(1) The brief does not contain a statement of the status of an amendment filed subsequent to the final rejection as required by 37 CFR 41.37(c)(1)(iv).

The status of the amendment filed after final on 10/2/2008 has not been included in the Status of Amendments section IV.

(2) The brief does not contain a concise statement of each ground of rejection presented for review as required by 37 CFR 41.37(c)(1)(vi).

The grounds of rejection to be reviewed does not include the specifics of which rejections are intended to be reviewed (see 37 CFR 41.37(c)(1)(vi). This should include exactly which claims are requested to be reviewed with regard to both the specific art rejection and the grounds for the art rejection. By way of example only, the rejection of claims 7 and 10-16 as being rejected under 35 USC 103(a) as being unpatentable over Barnes (288) in view of Malakatas (388) is appealed.

(3) The brief does not contain arguments of the appellant with respect to each ground of rejection presented for review, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on as required by 37 CFR 41.37(c)(1)(vii).

Sections B, C, D, and E do not state the grounds of rejection to be reviewed as to whether the rejections are intended to be based on 35 USC 102 or 103 or some other section of the statute. Further, there must be a nexus between the grounds of rejection to be review and what is argued in the brief. For instance, applicant should not just argue claim 7 only (see section D) if claims 7 and 10-16 are presented as being included in **the grounds of rejection to be reviewed (section VI)**. Further, applicant should not include an argument directed to Steadman in view of

Barnes in the section directed to what is being argued directed to the rejection of Steadman under 35 USC 102. (see page 10, last 3 lines of Appeal Brief). Each grounds of rejection to be reviewed must have its own section and be argued individually or separately (see 37 CFR 41.37(c)(1)(vii)).

(4) The CLAIMS APPENDIX section; EVIDENCE APPENDIX section; and RELATED PROCEEDINGS APPENDIX sections should be preceded by the appropriate roman numeral.

(5) The statement in the EVIDENCE APPENDIX that no evidence has been entered by the examiner is inaccurate. Each of the applied art references (Barnes (288); Malakatas (388); Ebert et al. (059); and Steadman et al. (152)) is considered to qualify as evidence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877 and whose e-mail address is ([Stephen.Johnson@uspto.gov](mailto:Stephen.Johnson@uspto.gov)). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.

/Stephen M. Johnson/  
Primary Examiner, Art Unit 3641

SMJ  
March 29, 2009

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